

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO.**

HEAVEN CORDELL,

Plaintiff,

v.

CHEROKEE COUNTY; SCOTT LINDSAY, in both his individual capacity and official capacity as DSS attorney for Cherokee County; and CINDY PALMER, in her individual capacity and official capacity as Director of DSS for Cherokee County,

Defendants.

**NOTICE OF REMOVAL UNDER 28
U.S.C. § 1441(A)**

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE THAT Defendants pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, hereby file their Notice of Removal of this action from the North Carolina General Court of Justice, Superior Court Division, Haywood County, to the United States District Court for the Western District of North Carolina. In support of this removal, Defendants state the following:

1. On June 24, 2020, Plaintiff caused initial pleadings to be filed against Defendants (1) Cherokee County; (2) Scott Lindsay, individually and officially as attorney for Cherokee County Department of Social Services (“DSS”); (3) Cindy Palmer, individually and officially as Director of Cherokee County DSS, in the General Court of Justice, Superior Court Division of Haywood County, North Carolina, Case No. 20-CVS-579 (the “State Court Action”).
2. Plaintiff caused the Summons and Complaint in the State Court Action to be served on the Defendants when they accepted service on or about June 24, 2020.

3. Accordingly, this Notice of Removal has been filed within thirty days of service on Defendants of Plaintiff's Summons and Complaint.

4. This Court has federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the allegations and a cause of action in the Complaint arise under 42 U.S.C. § 1983. *See* 28 U.S.C. § 1331 ("The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.").

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1441(a) and 1446(a).

6. Pursuant to 28 U.S.C. § 1441(a), "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court of the United States for the district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a).

7. Pursuant to 28 U.S.C. § 1446(b)(2), all Defendants who have been properly joined and served consent to removal in this action to this Court.

8. A copy of the Complaint is attached hereto as **Exhibit A**. This document constitutes all "process, pleadings, and orders" served upon Defendants in the State Court Action as required by 28 U.S.C. § 1446(a).

9. Written notice of the filing of this Notice of Removal will be provided to Plaintiff, together with a copy of the Notice of Removal and supporting papers. Pursuant to 28 U.S.C. § 1446(d), the same was filed with the Superior Court of Haywood County, North Carolina.

WHEREFORE, Defendants respectfully pray that the above-captioned action now pending against them proceed in this Court as an action properly removed.

Respectfully submitted, this the 27th day of July, 2020.

s/Sean F. Perrin
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Counsel for Defendants Cherokee County, Scott Lindsay in his official capacity, and Cindy Palmer in her official capacity

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Counsel for Defendant Scott Lindsay in his individual capacity

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Counsel for Defendant Cindy Palmer in her individual capacity

CERTIFICATE OF SERVICE

This is to certify that I have this day filed the foregoing **NOTICE OF REMOVAL** via CM/ECF and by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon as follows:

David A. Wijewickrama
95 Depot Street
Waynesville, North Carolina 28786
(828) 452-5801

Counsel for Plaintiff

This 27th day of July, 2020.

/s/Sean F. Perrin
Sean F. Perrin